

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

CIVIL APPLICATION NO.332 OF 2019
IN
CIVIL REVISION APPLICATION NO.314 OF 2017

In the matter between

Magnum Developers & Others	..	Applicants/ Appellants.
v/s.		
Lal Shah Baba Dargah Trust & Others	..	Respondents.

Ms. Chhaya Pandya, for the Applicant.

Mr. Ajay Panicker i/b. Ajay Law Associates, for the Respondent (Orig. Applicant).

Mr. Sharique Nachan with Mr. Parth Zaveri i/b. Judicare Law Associates, for Respondent No.1.

Mr. R. M. Momin, for Respondent No.2.

CORAM: M.S.SANKLECHA, J.

DATE : 3rd OCTOBER, 2019.
(In Chamber)

PC:-

This Civil Application has been taken out by Respondent Nos. 3 and 4 in the Civil Revision Application. Respondent Nos.3 and 4 seek variation/ modification in the order dated 18th September, 2017 passed in the above Civil Revision Application. The modification sought, is to release the members of Respondent Nos. 3 and 4 from executing and filing an undertaking in this Court to vacate and hand over the peaceful possession of their tenanments in the event of any eviction decree being passed against Respondent Nos.1 to 7 who are Defendant Nos. 1 to 7 in

the pending Wakf Suit No.144 of 2014 before the Wakf Tribunal and the Applicants in the Civil Revision Application.

2 The parties to the present Civil Applications have arrived at consensus between themselves as incorporated in Consent Minutes of the order 1st October, 2019. This Consent Minutes of Order had been signed by the parties to the Civil Revision Application and have been identified by their respective Advocates appearing for them. The copies of their PAN Card have also been annexed to the Consent Minutes of order. The said Consent Minutes had been signed by Power of Attorney holder of Respondent Nos. 1 to 7. The Advocate for the Wakf Board- Respondent No.2 has also signed the Consent Minutes of Order tendered in the Court.

3 The above Consent Minutes of Order is taken on record and marked 'A' for identification. The effective additional consent terms reads as under:-

“ The Original Applicants in CRA No.314 of 2017 (Defendant No.1 to 7 in Wakf Suit No.144 of 2014), hereby undertake to this Hon'ble Court that they shall submit an Undertaking to the Applicants no.1 and 2 societies mentioning therein that in the event any eviction decree is passed against them in the said Wakf Suit No.144 of 2014 filed by Respondent No.1 Trust hereto, and upon such eviction order becoming final, the Defendant no.1 to 7 shall accommodate and rehouse all the said eligible slum occupants including the 36 slum occupants whose names are given in the Exhibit- D (Page 22 to 23) to the present Civil Application in other alternate permanent accommodation premises free of costs at the costs and expenses of the Defendant no.1 to 7, in lieu of the permanent accommodation premises given or to be given to them in the Rehabilitation building constructed on the Suit land which is subject matter of Wakf Suit No.144 of 2014.

Upon receipt of such Undertaking by the Applicant No.1 and 2 Society for and on behalf of all its members, in their favour from the Original Applicants in CRA No.314 of 2017 (Defendant no.1 to 7 in Wakf Suit No.144 of 2014), the remaining members of the Applicant No.1 and 2 society hereby undertakes to accept the possession for the rehabilitation premises allotted in the said Rehabilitation Buildings constructed on the Suit land which is subject matter of Wakf Suit No.144 of 2014, subject to complying with all the other conditions stipulated in the Order dated 18th September, 2017 passed in Civil Revision Application no.314 of 2017 and Civil Application No.249 of 2017.

The Applicant Societies hereby undertake to this Hon'ble Court that on receipt of undertaking from defendant no.1 to 7, the 36 slum tenants who are already occupying old tenements on the plot will vacate their tenements on the said plot and the Applicant societies further hereby give the undertaking that they shall get this 36 slum tenants vacated."

4 It is made clear that, all other terms contained in the order dated 18th September, 2017 passed in Civil Revision Application No.314 of 2017, shall remain un-changed.

5 Accordingly, **Civil Application** is **disposed of** in terms of the Consent Minutes of Order and the order dated 18th September, 2017 in the Civil Revision Application, stands modified to the above extent.

(M.S.SANKLECHA,J.)